

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Edward Tsigel	Team: Squad #16	CCRB Case #: 202202413	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 04/14/2022 4:40 PM, Thursday, 04/14/2022 4:43 PM	Location of Incident: 915 Eagle Avenue, and 905 Eagle Avenue	Precinct: 42	18 Mo. SOL 10/14/2023	EO SOL 10/14/2023	
Date/Time CV Reported Fri, 04/15/2022 9:05 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Fri, 04/15/2022 9:11 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Andres Uribe	24649	964325	PSA 7
2. PO Joseph Canale	10524	960317	PSA 7
3. An officer			

Officer(s)	Allegation	Investigator Recommendation
A. PO Andres Uribe	Abuse: At 915 Eagle Avenue in the Bronx, Police Officer Andres Uribe stopped § 87(2)(b)	
B. PO Andres Uribe	Abuse: At 915 Eagle Avenue in the Bronx, Police Officer Andres Uribe frisked § 87(2)(b)	
C. PO Andres Uribe	Abuse: At 905 Eagle Avenue in the Bronx, Police Officer Andres Uribe stopped § 87(2)(b)	
D. PO Joseph Canale	Abuse: At 905 Eagle Avenue in the Bronx, Police Officer Joseph Canale stopped § 87(2)(b)	
E. PO Andres Uribe	Abuse: At 905 Eagle Avenue in the Bronx, Police Officer Andres Uribe drew his gun.	
F. PO Andres Uribe	Discourtesy: At 905 Eagle Avenue in the Bronx, Police Officer Andres Uribe spoke discourteously to § 87(2)(b)	
G. An officer	Force: At 905 Eagle Avenue in the Bronx, an officer used physical force against § 87(2)(b)	
H. PO Andres Uribe	Abuse: At 905 Eagle Avenue in the Bronx, Police Officer Andres Uribe failed to provide § 87(2)(b) with a business card.	
I. PO Joseph Canale	Abuse: At 905 Eagle Avenue in the Bronx, Police Officer Joseph Canale failed to provide § 87(2)(b) with a business card.	
§ 87(2)(g), § 87(4-b)		

Case Summary

On April 15, 2022, § 87(2)(b) filed this complaint on the CCRB website on behalf of her son, § 87(2)(b) (18 years old at the time of incident), and her nephew, § 87(2)(b) (14 years old at the time of incident).

On April 14, 2022, at 4:40 PM, Police Officer Andres Uribe and Police Officer Joseph Canale, both of PSA 7, were on patrol in the Bronx when they observed § 87(2)(b) and § 87(2)(b) walking on the sidewalk. PO Uribe allegedly stopped and frisked § 87(2)(b) in front of 915 Eagle Avenue in the Bronx (**Allegations A and B – Abuse of Authority – § 87(2)(g)**). PO Uribe and PO Canale then stopped § 87(2)(b) in the parking lot behind 905 Eagle Avenue in the Bronx (**Allegations C and D – Abuse of Authority – § 87(2)(g)**). Upon approaching § 87(2)(b) PO Uribe drew his gun (**Allegation E – Abuse of Authority – § 87(2)(g)**). PO Uribe spoke discourteously towards § 87(2)(b) (**Allegation F – Discourtesy – § 87(2)(g)**). An officer allegedly tackled § 87(2)(b) (**Allegation G – Force – § 87(2)(g)**). PO Uribe and PO Canale did not provide § 87(2)(b) with a business card (**Allegations H and I – Abuse of Authority – § 87(2)(g)**).

§ 87(2)(g), § 87(4-b)

This case was originally assigned to former Investigator Erica Jung and was reassigned to Investigator Edward Tsigel on December 13, 2022.

The CCRB received two Body Worn Camera (BWC) videos of this incident (BR 05, 06).

There was no arrest made or summons issued as a result of this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: At 915 Eagle Avenue in the Bronx, Police Officer Andres Uribe stopped § 87(2)(b)

Allegation (B) Abuse of Authority: At 915 Eagle Avenue in the Bronx, Police Officer Andres Uribe frisked § 87(2)(b)

§ 87(2)(b) (BR 01) stated that he and § 87(2)(b) were walking East on East 163rd Street, in the Bronx when they observed a black unmarked sedan across the street make a U-turn and follow them. They made a right turn onto Cauldwell Avenue and then ran from the unmarked sedan into an alleyway. When they reached the end of the alleyway, § 87(2)(b) stopped in front of 915 Eagle Avenue and § 87(2)(b) continued running. § 87(2)(b) did not know where § 87(2)(b) ran to. PO Uribe exited the unmarked sedan and chased § 87(2)(b) down the alleyway. § 87(2)(b) stated that he ran from the unmarked sedan because he did not want officers to shoot him, however, he did not clarify how he knew that there were officers inside the vehicle or why he believed they would shoot him. When PO Uribe caught up to § 87(2)(b) he frisked his pants, asked him where § 87(2)(b) was, and asked him if he or § 87(2)(b) had a gun. § 87(2)(b) denied that he had any weapons on him and told PO Uribe that he did not know where § 87(2)(b) was. Shortly after, PO Canale arrived in the unmarked sedan, PO Uribe entered the vehicle, and the officers left.

§ 87(2)(b) was not interviewed because despite contact attempts, he was unavailable (BR 02).

PO Uribe (BR 03) and PO Canale (BR 04) stated that they were driving west on East 163rd Street when they observed § 87(2)(b) and § 87(2)(b) walking east across the street from them. The area that they were patrolling was a high crime area with many recent gunpoint robberies. They observed § 87(2)(b) wearing a fanny pack draped across his chest and saw an outline of an object through the fanny pack which they believed to be a handgun. They both stated that the fanny pack appeared to be heavily weighed down by the object because it did not appear to move freely while § 87(2)(b) walked. PO Uribe described the fanny pack as being black, approximately eight and half by 11 inches, and made out of soft fabric. PO Uribe described the object as being straight and elongated, approximately five to six inches in length, and resembling the slide of a handgun. He observed the object from approximately two to three car lengths away. PO Canale described the

fanny pack as being either black or dark blue, square or rectangular in shape, and approximately five inches long. He was unable to tell what material it was. He described the object as having an “L” or “7” shape, with a long side resembling the slide of a handgun, and a short side resembling the handle of a handgun. He observed the object from approximately 20 feet away. PO Uribe and PO Canale stated that the fanny pack was closed, they did not see the object, and they only saw an outline of it through the fabric. They were driving in uniform with their windows down when § 87(2)(b) and § 87(2)(b) looked at them and then quickened their pace while looking over their shoulders. PO Uribe stated that § 87(2)(b) also grabbed his fanny pack and bladed his body away from the officers. The officers made a U-turn and drove towards § 87(2)(b) and § 87(2)(b) to observe them and the object from a closer view. § 87(2)(b) and § 87(2)(b) turned a corner and began to run away from the officers. PO Uribe and PO Canale believed that § 87(2)(b) was in possession of a handgun and made a joint decision to stop § 87(2)(b) to confirm whether the object they observed was a gun. PO Uribe exited the vehicle and ran after them towards Eagle Avenue while PO Canale drove the unmarked sedan around the block to Eagle Avenue.

PO Uribe (BR 03) stated that § 87(2)(b) stopped running in front of 915 Eagle Avenue while § 87(2)(b) ran away. He approached § 87(2)(b) and asked him where § 87(2)(b) went. § 87(2)(b) said that they did not have anything and did not have a gun. PO Uribe never mentioned anything regarding a gun to § 87(2)(b). He denied asking § 87(2)(b) if he or § 87(2)(b) had a gun. PO Uribe did not believe that § 87(2)(b) was armed with a gun and he was free to leave. He did not make physical contact with § 87(2)(b) or frisk him. PO Uribe only walked past § 87(2)(b) and asked him where § 87(2)(b) was. PO Uribe canvassed the parking lot of 915 Eagle Avenue and did not find § 87(2)(b). PO Canale picked up PO Uribe in the unmarked vehicle and they canvassed the surrounding area for § 87(2)(b). He did not have any further interaction with § 87(2)(b).

From 0:00 to 0:55 of PO Uribe’s BWC video 1/2 (BR 05), PO Uribe and PO Canale are driving in their vehicle and make a U-turn. At 0:55, PO Uribe exits the vehicle, runs down an alley way, and yells “NYPD.” At 1:11, § 87(2)(b) is standing at the end of the alley way and PO Uribe approaches him. PO Uribe asks, “Where’d your friend go” three times. § 87(2)(b) responds, “Bro I don’t got nothing.” PO Uribe stands close to § 87(2)(b) however PO Uribe’s hands are not seen and § 87(2)(b) body is out of the camera’s frame. It is unclear whether PO Uribe makes physical contact with § 87(2)(b) or frisks him at any point. At 1:18, PO Uribe leaves § 87(2)(b) and runs into the parking lot behind 915 Eagle Avenue. At 1:30, PO Uribe runs out of the parking lot to the sidewalk where § 87(2)(b) is standing. He passes by § 87(2)(b) while asking him, “Where’d your friend go? Why you running?” At 1:43, PO Uribe walks down the block to 905 Eagle Avenue. He passes a woman and asks her, “You see anybody running this way?” It is unclear if the woman responds. Between 2:12 and 2:17, PO Canale arrives to 905 Eagle Avenue and asks PO Uribe, “Where is he?” The footage ends without any further interaction with § 87(2)(b). PO Uribe does not ask § 87(2)(b) whether he or § 87(2)(b) had a gun at any point.

There was no stop report prepared for § 87(2)(b) (BR 07).

Patrol Guide Procedure 212-11 (BR 08) states that a level 3 encounter is any encounter between a civilian and a uniformed member of the service in which a reasonable person would not feel free to disregard the officer and walk away.

Although § 87(2)(b) ran from the officers, it is undisputed that he did not commit any crime and was not suspected of committing any crime. § 87(2)(g)

Allegation (C) Abuse of Authority: At 905 Eagle Avenue in the Bronx, Police Officer Andres Uribe stopped § 87(2)(b)

Allegation (D) Abuse of Authority: At 905 Eagle Avenue in the Bronx, Police Officer Joseph Canale stopped § 87(2)(b)

Allegation (E) Abuse of Authority: At 905 Eagle Avenue in the Bronx, Police Officer Andres Uribe drew his gun.

Allegation (F) Discourtesy: At 905 Eagle Avenue in the Bronx, Police Officer Andres Uribe spoke discourteously to § 87(2)(b)

Allegation (G) Force: At 905 Eagle Avenue in the Bronx, an officer used physical force against § 87(2)(b)

Allegation (H) Abuse of Authority: At 905 Eagle Avenue in the Bronx, Police Officer Andres Uribe failed to provide § 87(2)(b) with a business card.

Allegation (I) Abuse of Authority: At 905 Eagle Avenue in the Bronx, Police Officer Joseph Canale failed to provide § 87(2)(b) with a business card.

§ 87(2)(b) (BR 01) stated that he met up with § 87(2)(b) after this incident and saw that the back of his left hand had a medium-sized cut and was bleeding. § 87(2)(b) told him that he got the cut when an officer tackled him to the ground during his interaction with PO Uribe and PO Canale. § 87(2)(b) did not tell § 87(2)(b) which officer tackled him or any additional details about his interaction with the officers. § 87(2)(b) did not witness § 87(2)(b) interaction with PO Uribe and PO Canale and could not provide any additional information.

As mentioned above, § 87(2)(b) was not interviewed because despite contact attempts, he was unavailable (BR 02).

PO Uribe's BWC video 2/2 (BR 06) begins one minute and 20 seconds after his BWC video 1/2 ends. From 0:00 to 0:35, PO Uribe and PO Canale are inside their vehicle while speaking to § 87(2)(b) and other unknown individuals in the parking lot behind 915 Eagle Avenue. At 0:35, they exit the parking lot and drive to another parking lot behind 905 Eagle Avenue. At 0:55, PO Uribe and PO Canale exit their vehicle and PO Uribe draws his gun and yells "NYPD, show me your fucking hands. Yo, show me your hands." At 1:05, § 87(2)(b) walks out from behind an SUV with his hands up. § 87(2)(b) says that he has PTSD from a prior incident involving police officers. PO Uribe holsters his gun but it is unclear at which point. At 1:47, PO Canale tells § 87(2)(b) that they thought he was in possession of a gun. § 87(2)(b) says that he does not have a gun, lifts his fanny pack, and then squeezes it. The fanny pack is black, approximately seven inches long and five inches wide, and is hanging diagonally from his left shoulder to his right hip. At 2:10, PO Canale walks around the parking lot. PO Uribe asks § 87(2)(b) for his name and ID. He says that he does not have an ID and he is 14 years old. At 2:34, § 87(2)(b) asks PO Uribe if he is from PSA 7 and he says yes and tells him his name and shield number. At 2:41, PO Uribe asks § 87(2)(b) "Do you want contact information or no?" § 87(2)(b) responds, "Hm?" PO Uribe repeats, "Do you want contact information? You good? You good though?" § 87(2)(b) nods yes. At 2:50, PO Uribe says, "I just wanted to make sure you were good bro, because the way you were looking at us, the way you were acting ... elevated my level of suspicion and that's why ... and then when we come in the corner you guys just started running." PO Uribe asks § 87(2)(b) what happened to his hand and he says that he cut it when he tripped and fell when he was running. PO Uribe asks him if he has any weapons and if he wants to go to the hospital. § 87(2)(b) takes off his fanny pack and attempts to give it to PO Uribe. PO Uribe says it is fine. § 87(2)(b) then opens the fanny pack and empties it out. At 3:35, PO Uribe tells him that he did not ask him to do that. PO Canale concludes his canvass and walks back to the police vehicle. § 87(2)(b) does not answer whether he has any weapons on him or whether he wants medical attention. The officers let § 87(2)(b) go without further incident. There is no outline of a firearm on the fanny pack and there is no firearm or object resembling a firearm inside of the fanny pack at any point in the footage. The officers did not recover a firearm from § 87(2)(b) or the parking lot. Neither PO Uribe nor PO Canale tackle § 87(2)(b) or use any physical force against him at any point.

PO Uribe (BR 03) and PO Canale (BR 04) both stated that they stopped § 87(2)(b) when they saw him in the parking lot because they believed he had a gun in his fanny pack and was

dangerous based on the information discussed in Allegations A and B. They both denied that they tackled § 87(2)(b) or came into physical contact with him at any point.

PO Canale (BR 04) stated that he did not offer § 87(2)(b) a business card because he believed that PO Uribe would have offered him one. He stated that he did not confirm whether PO Uribe offered § 87(2)(b) a business card because he believed that PO Uribe was a thorough officer and would have done so.

In the Matter of George G., 73 A.D.3d 624 (BR 09) an officer saw a bulge in the appellant's waistband whose shape was consistent with the grip of a pistol. In addition, as the police approached, the appellant appeared to be positioning his body in an effort to conceal the side where the bulge was located. This combination of factors provided reasonable suspicion justifying a stop and frisk.

Video footage does not capture PO Uribe's and PO Canale's observations, or § 87(2)(b) actions prior to him being stopped. Despite PO Uribe and PO Canale both stating that they observed an object consistent with the shape of a handgun, their descriptions of the object varied. PO Canale's description of the object as being "L-" and "7-" shaped is generally consistent with the shape of a handgun, while PO Uribe described the object as being straight and elongated, which would have been innocuous. Based on conflicting officer testimony and the lack of video evidence, the investigation could not determine whether the officers observed a bulge in the shape of a handgun. Similarly, due to the lack of video evidence the investigation could not corroborate whether § 87(2)(b) bladed his body away from the officers in an effort to conceal his fanny pack. § 87(2)(g)

Additionally, while § 87(2)(b) did not have a firearm in his possession when he was stopped, the officers lost him for approximately three minutes and 20 seconds prior to stopping him. § 87(2)(g)

Patrol Guide Procedure 221-01 (BR 11) states that the decision to display or draw a firearm should be based on an articulable belief that the potential for serious physical injury is imminently present.

courtesy, professionalism, and respect.

According to DCT case No. 2018-18951 (BR 13), officers have a responsibility to act with decorum in their interactions with civilians, though certain situations where profane remarks are made during a stressful or chaotic situation do not constitute misconduct.

Allegations E and F were not alleged and are being pled based on BWC footage. As mentioned above, the investigation was unable to determine if PO Uribe and PO Canale reasonably believed that § 87(2)(b) was in possession of a firearm. § 87(2)(g)

Administrative Guide 304-11 (BR 14) states that when an officer conducts a level three stop, which does not result in an arrest being made or summons being issued, then the officer must offer a business card to the person in a professional manner upon the conclusion of the law enforcement activity.

Allegations H and I were not alleged and are being pled based on BWC footage. While PO Uribe stated that he offered a business card to § 87(2)(b) BWC footage shows that immediately after PO Uribe offered his “contact information,” he asked § 87(2)(b) “You good? You good though?” before he was able to respond. The investigation determined that PO Uribe attempted to offer a business card to § 87(2)(b) in a manner which was only to fulfill a requirement rather than courteously and professionally determining whether § 87(2)(b) wanted a business card by immediately asking another question before § 87(2)(b) had a reasonable time to answer. Furthermore, regardless of whether PO Uribe provided a business card to § 87(2)(b) it would not have alleviated PO Canale’s responsibility to do so. § 87(2)(g)

§ 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) (BR 17) and § 87(2)(b) (BR 18) have been a party.
- Police Officer Andres Uribe has been a member of service for five years and has been a subject in two CCRB complaints and eight allegations, none of which were substantiated. § 87(2)(g)
- Police Officer Joseph Canale has been a member of service for seven years and has been a subject in seven CCRB complaints and thirty-three allegations, of which nine were substantiated:

- § 87(2)(g) [REDACTED]

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of February 10, 2023, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this incident (BR 19).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] [REDACTED]

Squad: 16

Investigator:	Inv. Tsigel	Investigator Edward Tsigel	5/2/2023
	Signature	Print Title & Name	Date

Squad Leader:	Patrick Yu	IM Patrick Yu	05/02/2023
	Signature	Print Title & Name	Date

Reviewer:			
	Signature	Print Title & Name	Date